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September 27, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE

State Children's Health Insurance Program (SCHIP) Reauthorization Bill

On September 25, 2007, the House passed H.R. 976, the State Children's Health Insurance (SCHIP) reauthorization bill, on a 265 to 169 vote, which falls short of the two-thirds majority that would be required to override the expected veto by President Bush. The bill had been amended under a compromise agreement with the Senate to largely mirror the less costly Senate version in hopes that it would receive enough votes to override a veto in both houses. Today, the Senate passed H.R. 976 by a margin of 67 to 29, which would be sufficient to override a veto.

In anticipation of a Presidential veto of the bill, the Federal Fiscal Year (FFY) 2008 Continuing Resolution (H.J. Res. 52), which will be sent to the President by the end of the week, appropriates \$5.0 billion for SCHIP, the same amount as in FFY 2007, and extends the authorization for SCHIP through November 16, 2007. H.J. Res. 52 also includes language authorizing the Secretary of Health and Human Services to redistribute unexpended FFY 2005 SCHIP funds to states, such as California; with projected shortfalls for FFY 2008. California would receive an estimated \$21.2 million in redistributed funds according to the Congressional Research Service (CRS).

H.R. 976, which reauthorizes SCHIP for five years, increases SCHIP funding by a combined total of \$35 billion – an amount estimated to be sufficient to cover an additional four million children nationwide and to enable California to expand SCHIP/Healthy Families coverage to

children with incomes above 250 percent of the Federal Poverty Level (FPL), as proposed under the Governor's and AB 8 (Nunez) health care reform plans. Under the bill, SCHIP funding would increase from \$5.0 billion in 2007 to \$9.1 billion in 2008, \$10.7 billion in 2009, \$11.9 billion in 2010, \$13.8 billion in 2011, and \$16 billion in 2012. As estimated by the CRS, California's annual SCHIP allotment would increase from \$789.2 million in FFY 2007 to \$1,396.2 million in 2008. Counting carryover funds and the projected redistribution of unspent funds from other states, the State's total available FFY 2008 SCHIP funding would increase from \$905.0 million under current law to \$1,490.8 billion -- a \$585.8 million increase.

The bill also, in effect, would overturn SCHIP guidelines, issued by the Centers for Medicare and Medicaid Services on August 17, 2007, which, if fully implemented, would virtually preclude states from covering children in families with incomes above 250 percent of FPL. Thirty-three members of California's Congressional delegation signed a letter to the President, urging that these guidelines be rescinded. Under H.R. 976, states would receive the higher SCHIP match rate for health care services provided to children up to 300 percent of FPL and the Medicaid match rate for children above 300 percent of FPL. This means that California would receive a Federal match rate of 65 percent for all children who would be covered under the Governor's and AB 8 plans. The bill also includes anti-"crowd-out" provisions aimed at discouraging the substitution of SCHIP for private health insurance if coverage is extended to families above 300 percent of FPL.

Other revisions to SCHIP in H.R. 976 include: 1) reducing the time period for states to spend their SCHIP allotments from three to two years, 2) providing new state options to cover pregnant women and provide premium assistance subsidies for employer health plans, and 3) requiring mental health parity under SCHIP.

The bill includes revisions to the 2005 Deficit Reduction Act (DRA) Medicaid citizenship documentation requirements. On the positive side, it provides a new option for states to verify citizenship using a new automated Social Security number matching system, which would be far less costly and burdensome for state and local welfare agencies and applicants. The Federal match rate of 75 percent for operating the system also is far higher than the 50 percent match rate which states, otherwise, would receive. The bill also would provide Medicaid applicants with a reasonable time opportunity to document their U.S. citizenship before Medicaid benefits may be denied -- the same protection afforded to legal immigrants since 1986. Under the DRA, citizen applicants are not eligible to receive any Medicaid benefits, including emergency care, until they prove their citizenship, which can take time if they must obtain and submit acceptable citizenship documents, such as a passport, birth certificate, or naturalization certificate.

On the negative side, H.R. 976 would prohibit DRA Medicaid citizenship documentation requirements from being waived, including when indigent persons who, otherwise, are ineligible for Medicaid receive a limited range of low-cost services through a waiver. The County's Department of Health Services estimates that 20,000 fewer persons a year will be

served under the California Hospital Financing Waiver's Coverage Initiative to offset the additional cost of administering the citizenship documentation requirements for indigent persons who receive ambulatory care through it. The bill also would apply these DRA requirements to SCHIP. Because SCHIP funding is capped, states would have to offset the higher costs of administering the DRA requirements with other program reductions.

In mirroring the previous Senate version, H.R. 976 neither included Medicare provisions, reauthorization of Transitional Medical Assistance Program, nor a new state option under Medicaid and SCHIP to cover legal immigrant children and pregnant women in the U.S. for less than five years, which were included in the previous House version. However, it does include the previous House bill's one-year moratorium on regulatory or administrative actions that would limit Medicaid payments for rehabilitative or school-based services. Congress is expected to act on Medicare and other health provisions not included in the SCHIP bill in separate legislation, which also could be the vehicle for an amendment to retain residency slots for Martin Luther King, Jr. – Harbor Hospital.

FFY 2008 Continuing Resolution (H.J. Res. 52)

On September 26, 2007, the House passed, 404 to 14, the FFY 2008 Continuing Resolution (H.J. Res. 52), which would temporarily fund Federal programs and operations at their FFY 2007 levels through November 16, 2007. As indicated earlier, the Continuing Resolution (CR) also appropriates \$5.0 billion for SCHIP. To avoid a government shutdown, the President is expected to sign the CR into law after it is cleared by the Senate. None of the appropriations bills for FFY 2008, which begins on October 1, 2007, have been enacted.

Health Extender Bill (H.R. 3668)

On September 26, 2007, the House passed, by voice vote, H.R. 3668, legislation which extends a number of health programs through December 31, 2007, including the Transitional Medical Assistance Program which provides extended Medicaid coverage to families who, otherwise, would lose benefits due to increased earnings, and the Qualified Individual Program which pays Medicare Part B premiums for low-income seniors.

State Criminal Alien Assistance Program (SCAAP) Legislation (H.R. 1512)

On September 25, 2007, the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law approved County-supported H.R. 1512 (Linda Sanchez, D-CA), which would allow state and local governments to claim SCAAP reimbursement for incarcerating undocumented aliens who were charged, but not convicted of a felony or two or more misdemeanors. Under current law, only the costs of incarcerating undocumented criminal aliens convicted of a felony or two or more misdemeanors are eligible for reimbursement. The bill would increase the County's SCAAP revenue by expanding the definition of reimbursable SCAAP costs. H.R. 1512 has not yet been scheduled for full committee mark-up.

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HIV/AIDS Legislation (H.R. 1943)

On September 25, 2007, the House passed, by voice vote, County-supported H.R. 1943 (Waters, D-CA), the Stop AIDS in Prison Act of 2007. This bill requires routine HIV testing for all Federal prison inmates upon entry and prior to release from Federal Bureau of Prison facilities, unless the inmate opts-out of taking the test. The bill also requires HIV/AIDS awareness education for all inmates and comprehensive treatment for those inmates who test positive and contains provisions to protect the confidentiality of inmate tests and treatment.

We will continue to keep you advised.

WTF:GK
MAL:MT:acn

c: All Department Heads
Legislative Strategist